IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1262 OF 2005

Smt.Dhanpati Devi Sampatraj Laddha ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr.Ramrao Adik, Sr.Counsel with Ms.Rajshree Gadhani & Mr.Rishi Bhuta for Applicant.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondent No.1.

Mr.A.P.Mundargi with Mr.B.D.Joshi for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

APRIL 6, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. This Application takes exception to the order passed by the Additional Sessions Judge, Greater Bombay dated 12th January 2005 in Anticipatory Bail Application No.1467 of 2005

granting anticipatory bail to accused No.4 Pooja Shiv Gopal Dhamani. The sole reason recorded by the Court below to accede to the prayer for anticipatory bail of accused No.4 is that she is the sister-in-law of the deceased and prima facie, she cannot be said to be concerned with allegation of demand of money and physical and mental harassment. It is categorically observed by the learned Judge that there is no specific allegation against her. This opinion recorded by the learned Judge, to say the least, is perverse, inasmuch as, the F.I.R. clearly records the involvement of the accused No.4 in the commission of the offence. There is allegation of physical torture at the instance of accused No.4 suffered by the deceased. At least at more than two places, specific role has been assigned to accused No.4 in that behalf. For the nature of allegations in the F.I.R., it was not a case for anticipatory bail.

3. Viewed in this perspective, the order in favour of the accused No.4 passed by the lower Court cannot be sustained and the same therefore deserves to be set-aside by this order.

4. Mr.Mundargi, however, submits that the allegations in the F.I.R. against accused No.4 are unsubstantiated. In that the evidence collected by the Investigating Officer so far, would absolve the involvement of accused No.4. That however, is not the basis on which the lower Court has showed indulgence to the accused No.4/Respondent herein. Accordingly, I see no reason to sustain the order passed by the lower Court in favour of accused No.4/Respondent herein. The same is therefore set-aside.

5. While doing so, however, I may observe that the appropriate Court shall consider the regular bail application to be filed by the accused No.4/Respondent herein on its own merits in accordance with law, on the basis of materials which are available on record, uninfluenced by the observations in this Court.

6. The accused No.4/Respondent herein may file regular bail application before the

appropriate Court on or before 15th April 2005 till which period, she shall not be arrested on condition that she shall co-operate with the investigation of the case as and when called upon by the concerned Investigating Officer. The proposed regular bail application be moved before the appropriate Court, upon giving advance notice to the Investigating Officer/Police Station.

7. The Investigating Officer is personally present in Court and assures that as investigation is substantially completed, charge-sheet will be filed not later than 13th April 2005. That assurance is accepted.

8. Application disposed of on the above terms.

9. Copy of this order be forwarded to the Registrar General of this Court to be placed before the appropriate Authority for necessary action, in view of the observations made in the order relating to the approach of the concerned Judge along with the order passed by the concerned Judge, which is

subject matter of challenge in this Application.

A.M.KHANWILKAR, J.